

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-439 (Sub-No. 6X)¹

DALLAS AREA RAPID TRANSIT—ABANDONMENT EXEMPTION—IN COLLIN
COUNTY, TX

Decided: May 15, 2006

Dallas Area Rapid Transit (DART), a political subdivision of the State of Texas, and Dallas, Garland and Northeastern Railroad (DGNO), a Class III rail carrier, jointly filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuance of Service for DART to abandon, and for DGNO to discontinuance service over, approximately 8.85 miles of railroad, between milepost 281.65, near Plano, and milepost 290.5, near Allen, in Collin County, TX. Notice of the exemption was served and published in the Federal Register on April 14, 2006 (71 FR 19617-18). The exemption is scheduled to become effective on May 16, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 21, 2006. In the EA, SEA states that the Texas Historical Commission (SHPO) requested future consultations with DART to determine the potential impact of the project on historic resources. Therefore, SEA recommends that DART be required to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places (National Register) (generally, 50 years old or older), until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). SEA also recommends that DART be required to report back to SEA regarding the results of any consultation with the SHPO and any other party consulted in the section 106 process, and that DART not be allowed to consummate the abandonment or initiate any salvage activities related to abandonment until the Board removes this condition.

SEA also states in the EA that the National Geodetic Survey (NGS) has identified two geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends that DART be required to provide NGS with at least 90 days' notice prior to beginning salvage activities so that NGS may plan for the possible relocation of the station markers.

¹ The notice served and published on April 14, 2006, embraced STB Docket No. AB-585 (Sub-No. 1X), Dallas, Garland, and Northeastern Railroad—Discontinuance of Service Exemption—in Collin County, TX.

Comments to the EA were due May 8, 2006. No comments were received by the due date. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

SEA indicated in the EA that the right-of-way may be suitable for other public use following abandonment. On April 24, 2006, DART filed a request for the issuance of a notice of interim trail use (NITU) for the line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and 49 CFR 1152.29 in order to rail bank its own line.² DART has submitted a statement of willingness to retain ownership of the right-of-way and to remain financially responsible for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and has acknowledged that the use of the right-of-way for trail purposes is subject to future reactivation for rail service.

In light of DART's statement that it will remain financially responsible for the right-of-way, acknowledging that use of the right-of-way is subject to possible future restoration of rail service, the requirements of the Trails Act and the regulations have been met, and a NITU will be issued.

As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on April 14, 2006, exempting the abandonment of the line described above, is modified to the extent necessary to implement interim trail use/rail banking for the rail line, and subject to the conditions that DART shall: (1) retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register (generally, 50 years old or older), until completion of the section 106 process of the NHPA, report back to SEA regarding the results of any consultation with the SHPO and any other parties consulted in the section 106 process, and not consummate the abandonment or initiate any salvage activities related to abandonment until the

² A railroad is permitted to rail bank its own line where the railroad represents that the property is suitable for interim trail use and that it will assume financial responsibility for the line. See Roaring Fork Railroad Holding Authority—Abandonment Exemption—in Garfield, Eagle and Pitkin Counties, CO, STB Docket No. AB-547X, slip op. at 4 n.11 (STB served Oct 16, 1998).

Board removes this condition, and (2) provide NGS with at least 90 days' notice prior to beginning salvage activities so that NGS may plan for the possible relocation of the station markers.

3. DART must notify the Board if it is going to discontinue rail banking and consummate the abandonment.

4. Interim trail use/rail banking is subject to the future restoration of rail service.

5. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary